

(1) Show the mark as actually used on or in connection with the goods or in the sale or advertising of the services. A photocopy or other reproduction of the specimen showing the mark as actually used is acceptable. However, a photocopy that merely reproduces the registration certificate is not a proper specimen;

(2) Be flat and no larger than 8.5 inches (21.6 cm.) wide by 11.69 inches (29.7 cm.) long. If a specimen exceeds these size requirements (a “bulky specimen”), the Office will create a facsimile of the specimen that meets the requirements of the rule (*i.e.*, is flat and no larger than 8.5 inches (21.6 cm.) wide by 11.69 inches (29.7 cm.) long) and put it in the record. In the absence of non-bulky alternatives, the Office may accept an audio or video cassette tape recording, CD-ROM, or a specimen in another appropriate medium.

(3) Be a digitized image in .jpg or .pdf format, if transmitted through TEAS.

[64 FR 48924, Sept. 8, 1999, as amended at 67 FR 79522, Dec. 30, 2002; 68 FR 55769, Sept. 26, 2003; 73 FR 47686, Aug. 14, 2008; 73 FR 67773, Nov. 17, 2008]

§ 2.162 Notice to registrant.

When a certificate of registration is originally issued, the Office includes a notice of the requirement for filing the affidavit or declaration of use or excusable nonuse under section 8 of the Act. However the affidavit or declaration must be filed within the time period required by section 8 of the Act even if this notice is not received.

[64 FR 48925, Sept. 8, 1999]

§ 2.163 Acknowledgment of receipt of affidavit or declaration.

The Office will issue a notice as to whether an affidavit or declaration is acceptable, or the reasons for refusal.

(a) If the owner of the registration filed the affidavit or declaration within the time periods set forth in section 8 of the Act, deficiencies may be corrected if the requirements of § 2.164 are met.

(b) A response to the refusal must be filed within six months of the date of issuance of the Office action, or before the end of the filing period set forth in section 8(a) or section 8(b) of the Act, whichever is later. The response must

be signed by the owner, someone with legal authority to bind the owner (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter.

(c) If no response is filed within this time period, the registration will be cancelled, unless time remains in the grace period under section 8(c)(1) of the Act. If time remains in the grace period, the owner may file a complete new affidavit.

[64 FR 48925, Sept. 8, 1999, as amended at 73 FR 67773, Nov. 17, 2008]

§ 2.164 Correcting deficiencies in affidavit or declaration.

(a) If the owner of the registration files an affidavit or declaration within the time periods set forth in section 8 of the Act, deficiencies may be corrected, as follows:

(1) *Correcting deficiencies in affidavits or declarations timely filed within the periods set forth in sections 8(a) and 8(b) of the Act.* If the owner timely files the affidavit or declaration within the relevant filing period set forth in section 8(a) or section 8(b) of the Act, deficiencies may be corrected before the end of this filing period without paying a deficiency surcharge. Deficiencies may be corrected after the end of this filing period with payment of the deficiency surcharge required by section 8(c)(2) of the Act and § 2.6.

(2) *Correcting deficiencies in affidavits or declarations filed during the grace period.* If the affidavit or declaration is filed during the six-month grace period provided by section 8(c)(1) of the Act, deficiencies may be corrected before the expiration of the grace period without paying a deficiency surcharge. Deficiencies may be corrected after the expiration of the grace period with payment of the deficiency surcharge required by section 8(c)(2) of the Act and § 2.6.

(b) If the affidavit or declaration is not filed within the time periods set forth in section 8 of the Act, or if it is filed within that period by someone other than the owner, the registration will be cancelled. These deficiencies cannot be cured.

[64 FR 48925, Sept. 8, 1999]